

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

ROGER DEAN GILLISPIE,

Plaintiff,

:

Case No. 3:13-cv-416

- vs -

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

CITY OF MIAMI TOWNSHIP, et al.,

Defendants.

:

SCHEDULING ORDER ON MOTION TO RECUSE

This case is before the Court on Motion for Recusal of Defendants Miami Township, Matthew Scott Moore, Tim Wilson, Thomas Angel, Marvin Scothorn, John DiPietro, and Stephen Gray (collectively the “Miami Township Defendants”)(Doc. No. 49). The Motion was filed on May 1, 2014. Under S. D. Ohio Civ. R. 7.2, the time within which other parties might file memoranda relating to that Motion would ordinarily expire May 27, 2014.

Motions to recuse are addressed in the first instance to the judge sought to be disqualified. *United States v. Studley*, 783 F.2d 934, 940 (9th Cir. 1988); *In re Drexel Burnham Lambert, Inc.*, 861 F.2d 1307, 1312 (2nd Cir. 1988) *reh’g denied*, 869 F.2d 116; *MacNeil v. Americold Corp.*, 735 F. Supp. 32, 36 (D. Mass. 1990)(specifically applying rule to United States magistrate judges). If the Motion were to be denied, the moving defendants would have a right to appeal to Judge Rose. At the same time, there are other matters pending in the case: several

Defendants have pending motions to dismiss, the Miami Township Defendants have filed a Joint Motion for Judgment on the Pleadings (Doc. No. 53), and the deadline for service of process under Fed. R. Civ. P. 4(m) is fast approaching.

Accordingly, it is hereby ORDERED that any party intending to file a response to the Motion for Recusal do so not later than May 16, 2014.

May 7, 2014.

s/ *Michael R. Merz*
United States Magistrate Judge